

REMARKS

I. Summary of Office Action

Claims 1, 8, 46-51, 53-67, 69-76, 78, 80-88, and 90-123 were pending in the above-identified patent application. Of those, claims 1, 8, 72-76, 78, 80, 81, 104-117, and 122 have been withdrawn from further consideration as being drawn to a non-elected invention.

Claims 46-51, 53-67, 69-71, 82-88, 90-103, 118-121, and 123 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,790,642 to Taylor et al. ("Taylor") in view of U.S. Patent No. 6,161,099 to Harrington et al. ("Harrington").

II. Summary of Applicants' Reply

Independent claims 46, 53, and 63 have been amended to more particularly point out and distinctly claim the subject matter which applicants regard as their invention. New dependent claims 124-128 have been added. New dependent claims 124-128 are fully supported by the specification as originally filed and add no new matter.

The claim rejections are respectfully traversed.

III. The Claim Rejections

All of the claims – independent claims 46, 53, 63, 82, and 88 and their respective dependent claims – have been rejected under section 103 as being unpatentable over Taylor in view of Harrington.

As background, applicants appealed the rejection of the claims to the Board of Patent Appeals and Interference ("the Board"), filing an Appeal Brief on June 30, 2008 and a Reply Brief on November 6, 2008. Collectively, the Appeal and Reply Briefs set forth that the claims

of this patent application were not obvious over the combination of Taylor with Harrington because the combination failed to teach or suggest all the features of the claims, including the claimed “bidding data” among other features, and because the Office Action did not articulate a proper reason to support the combination of references. The Board rendered a decision on August 10, 2010, affirming the rejection set forth in the Final Office Action.

With respect to applicants’ position that the combination of Taylor with Harrington fails to teach or suggest the transmission of the claimed “bidding data,” the Board noted the following:

As the Appellants argue, claim 46 does recite “storing the bids and the processed bid data in a data base of the moderating computers as first bidding data.” However, claim 46 only requires that *at least a portion* of the first bidding data be transmitted. Claim 46 recites “transmitting *at least a portion* of the first bidding data to at least a portion of the at least two telecommunication Providers.” (Emphasis added.) Claim 46 does not recite any other restrictions on which portion of the first bidding data is transmitted and does not preclude transmitting a portion that only contains the received bids and not the processed bid data. The Appellants’ argument is based on a limitation not required by claim 46. Accordingly, we are not persuaded by the Appellants’ argument.

(Aug. 10, 2010 Board Decision at 5) (emphasis in original). To address the Board’s point and facilitate prosecution of this application, applicants have amended claim 46 to clarify that the claimed “bidding data” includes “at least a portion of the processed bid data.” Therefore, claim 46 now explicitly recites that the transmitted bidding data includes processed bid data. Independent claims 53 and 63 have been similarly amended to recite that processed bid data is transmitted, and independent claims 82 and 88 as previously presented recite that “processed bid information” is distributed.

In stark contrast to the claimed approaches, both Taylor and Harrington fail to teach or suggest at least the transmission or distribution of bidding data that includes “at least a portion of

the processed bid data” (claims 46, 53, and 63) or “at least a first portion of the processed bid information” (claims 82 and 88) to a portion of at least two telecommunication Providers. The Office Action acknowledges the deficiency of Taylor in this respect: “Taylor does not explicitly disclose [in] the Moderating computer, transmitting at least a portion of the first bidding data to at least a portion of the at least two telecommunication Providers.” (Office Action, pp. 3-4, 7; *see also* pp. 9, 11). Harrington, however, fails to fill this gap in Taylor.

Harrington describes providing a user of a municipal bond auction web site with a “confirmation screen”:

After a user selects the submit button 74 and the bid is verified as conforming to the bid parameters, the bidder is presented with a confirmation screen, an example of which is shown in FIG. 13, to confirm the bid prior to submission. As shown in FIG. 13, a summary of the bid is presented to the user in this confirmation. If confirmed, the bid will be electronically submitted to the auctioneer computer 10. The confirmation gives a safety check to users to help them avoid the submission of erroneous or undesired bids.

(Harrington, col. 10:42-50). Harrington also describes that “[i]f the submitted bid is higher than the current highest bid, it becomes the new current highest bid and, if desired, is made available to all bidders.” (Harrington, col. 5, ll. 32-35). While Harrington generally discloses providing a user of its auction web site with a summary of its bid for confirmation, and making the highest bid available to all users if desired, Harrington in no way discloses providing bidding data that includes “at least a portion of the processed bid data” or “at least a first portion of the processed bid information” to at least a portion of at least two telecommunication Providers, as is required by applicants’ claims. In particular, neither the confirmation screen of Harrington, nor Harrington’s description of making the highest bid available to bidders, teaches or suggests transmitting “at least a portion of the processed bid data” or “at least a first portion of the processed bid information” to at least a portion of at least two telecommunication Providers as

claimed. The claimed “processed bid data” or “processed bid information” is the result of processing bids to provide telecommunication service. Therefore, for Harrington to disclose this feature of the claim, Harrington would have to disclose the transmission of data resulting from the processing of bids for telecommunication service. This simply is not the case, as Harrington merely provides a confirmation screen or the highest available bid, and furthermore, Harrington is completely unrelated to providing telecommunication service.

Thus, for at least these reasons, Harrington fails to fill the admitted gap in the disclosure of Taylor, and therefore the combination fails to teach or suggest all the elements of independent claims 46, 53, 63, 82, and 88. The rejection of claims 46, 53, 63, 82, and 88 as unpatentable over the combination of Taylor with Harrington should therefore be withdrawn. As claims 47-51, 54-62, 64-67, 69-71, 83-87, 90-103, 118-121, and 123 depend from claims 46, 53, 63, 82, and 88, these claims are also patentable over the combination of Taylor with Harrington for at least the same reasons given above, and therefore the rejections of these claims should also be withdrawn.

IV. New Dependent Claims 124-128

New dependent claims 124-128 have been added. New dependent claims 124-126 further recite that “the moderating computer provides the at least a portion of the at least two telecommunication Providers with the ability to submit a new bid to provide telecommunication service over the at least one route, or the at least one route segment, on the at least one telecommunication network.” New dependent claim 127 further recites “providing the at least a portion of the at least two telecommunication Providers with the ability to submit a new bid to provide telecommunication service over the at least one route, or the at least one route segment, on the at least one telecommunication network.” New dependent claim 128 further recites

“providing the at least a portion of the at least two telecommunication Providers with the ability to submit a new bid to provide the telecommunication service described in the request.”

New claims 124-128 are fully supported by the specification as originally filed and add no new matter. (*See, e.g.*, Specification, ¶ 0013). Applicants respectfully submit that new claims 124-128, which respectively depend from independent claims 46, 53, 63, 82, and 88, are allowable for at least the same reasons that independent claims 46, 53, 63, 82, and 88 are allowable.

V. Conclusion

The foregoing demonstrates that claims 46-51, 53-67, 69-71, 82-88, 90-103, 118-121, and 123-128 are patentable. This application is therefore in condition for allowance.

Reconsideration and prompt allowance are accordingly respectfully requested.

VI. Authorization

The Director is hereby authorized to charge any additional fees which may be required for this Reply, or credit any overpayment, to Deposit Account No. 08-0219.

In the event that an Extension of Time is required, or which may be required in addition to that requested in a petition for an Extension of Time, the Director is requested to grant a petition for that Extension of Time which is required to make this response timely and is hereby authorized to charge any fee for such an Extension of Time or credit any overpayment for an Extension of Time to Deposit Account No. 08-0219.

Respectfully submitted,

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